

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
NORFOLK/NEWPORT NEWS DIVISION

SENTENCING

Set: 10:00 a.m.
 Started: 10:03 a.m.
 Ended: 11:31 a.m.

Date: 3/21/17
 Judge: Robert G. Doumar, SUSDJ
 Court Reporter: Emily Keppenharver, Taylor
 U.S. Attorney: Beth Yusi
 Defense Counsel: Rodolfo Cejas, AFPD
 CRD/Law Clerk: Lori Baxter/Christine Choi
 Probation Officer: Tara Gill

Case No. 2:16CR36 Defendant: GERALD ANDREW DARBY
 (☒) in custody () on bond Interpreter: _____

- ☒ Came on for disposition.
- ☒ Govt/Deft motion for to waive PSR and proceed to sentencing Argued.
- ☒ Granted. ☐ Denied.
- ☒ Presentence report reviewed: previously prepared ☒ Objections heard and rulings made.
- ☐ Evidence presented. (Witnesses and exhibits listed on last page)
- ☒ Arguments of counsel. Adopted previous arguments
- ☐ Statement of defendant. (Sworn / Unsworn)
- ☐ Court finds deft. GUILTY as to Count(s) _____ after a plea before a USMJ.

IMPRISONMENT

SENTENCE: Count(s) 1: The deft. shall be committed to the custody of B.O.P. to be imprisoned for a term of 60 months. The term consists of _____ months on Count _____ and a term of _____ months on Count _____, all to be served concurrently/consecutively.

☒ The deft. is remanded to the custody of the U.S. Marshal.

☐ The deft. shall receive credit for time served.

☐ The deft. shall surrender for service of the sentence at the institution designated by the Bureau of Prisons/U.S. Marshal, before _____ on _____, as notified by the U.S. Marshal. If no designation received, the deft. is to report to the USM, 600 Granby Street, Norfolk, VA before _____ on _____.

PROBATION / SUPERVISED RELEASE

☐ The deft. shall be placed on probation for a term of _____ years.

☒ Upon release from imprisonment, the deft. shall be on supervised release for a term of 15 years. This term consists of _____ years on Count _____, and _____ years on Count _____, all to run concurrently.

While on supervised release pursuant to this Judgment, the defendant shall also comply with the following additional special conditions:

- 1) If the defendant tests positive for illicit substances or alcohol during his period of supervised release, he shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the defendant has reverted to the use of drugs or alcohol, with partial costs to be paid by the defendant, all as may be directed by the probation officer.
- 2) The defendant shall abstain from alcohol during his period of supervised release.
- 3) The defendant shall waive all rights of confidentiality regarding substance abuse treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and any treatment provider.
- 4) The defendant shall participate in a program approved by the United States Probation Office for mental health treatment to include a psychosexual evaluation and sex offender treatment. The costs of these programs are to be paid partially by the defendant as may be directed by the probation officer.
- 5) The defendant shall waive all rights of confidentiality regarding sex offender and mental health treatment to allow the release of information to the United States Probation Office and the Bureau of Prisons and authorize communication between the probation officer, the Bureau of Prisons, and any treatment provider.
- 6) The defendant shall submit to polygraph testing as directed by the United States Probation Office as part of his sexual offender therapeutic program. The costs of the testing are to be paid partially by the defendant, all as directed by the probation officer.
- 7) The defendant shall submit to penile plethysmograph testing or Able Assessment for Sexual Interest as directed by the United States Probation Office as part of his sex offender therapeutic treatment. The costs of the testing are to be paid partially by the defendant as may be directed by the probation officer.
- 8) The defendant shall not utilize any sex-related adult telephone services, websites, or electronic bulletin boards. The defendant shall submit any records requested by the probation officer to verify compliance with this condition including, but not limited to, credit card bills, telephone bills, cable and satellite television bills, or any bills of any kind to access any internet or other type of devices.
- 9) The defendant shall not have any access to or possess any pornographic material or pictures displaying nudity or any magazines using juvenile models or pictures of juveniles.
- 10) The defendant shall have no contact with minors unless supervised by a competent, informed adult, approved in advance by the probation officer.
- 11) The defendant shall not engage in any employment or volunteer services that allow him access to computers or minors, without the express permission in advance by the probation officer.
- 12) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, or

attends school, according to federal and state law and as directed by the probation officer.

- 13) Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall submit to a search of his person, property, house, residence, vehicle, papers, computer, and any electronic communications or data storage devices or media, and his effects at any time, by any law enforcement or probation officer with reasonable suspicion concerning unlawful conduct or a violation of a condition of supervision upon prior notification to and approval by the Court or with a warrant.
- 14) The defendant shall not possess or use a computer to access any online computer services at any location, including employment, without the prior approval of the probation officer. This includes any internet service providers, bulletin board systems or any other public or private computer network.

FINANCIAL PENALTIES

☒ Court finds deft. ^{not capable of paying any fine} is unable to pay fine.

☐ The deft. shall pay a fine of \$_____. Interest waived? ☐ yes / ☐ no

☐ The deft. shall make restitution in the amount of \$_____. Interest waived? ☐ yes / ☐ no

☐ Restitution is joint and several with_____

☒ The deft. shall pay a special assessment of \$ 100.00 as to each count.

The TOTAL SPECIAL ASSESSMENT due is \$100.00.

SCHEDULE OF PAYMENTS

☒ The Special Assessment/Restitution shall be due in full immediately.

☒ Any balance remaining unpaid on the special assessment/~~restitution~~ at the inception of supervision shall be paid by the defendant in installments of not less than \$ 25.00 per month, until paid in full. Said payments shall commence 60 days after defendant's supervision begins.

☐ At the time supervision commences, the probation officer shall take into consideration the defendant's economic status as it pertains to his ability to pay the special assessment/restitution ordered and shall notify the court of any changes that may be needed to be made to the payment schedule.

☐ Any special assessment or restitution payments may be subject to penalties for default and delinquency.

☒ Nothing in the court's order shall prohibit the collection of any judgment ^{SA,} or fine by the United States.

☐ Since this judgment imposes a period of imprisonment, payment of criminal monetary penalties, including the special assessment and restitution, shall be due during the period of imprisonment. All criminal monetary penalty payments, including the special assessment, are to be made to the Clerk, United States District Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

APPEAL RIGHTS/DISMISSAL OF COUNTS/BOP RECOMMENDATIONS

☐ The deft. notified of right of appeal.

☐ Court noted that deft. waived right of appeal in plea agreement.

☒ On motion of govt. the remaining counts of the indictment, to which the deft. has not pled guilty, are hereby dismissed. *if not previously dismissed*

☐ The deft. is continued on present bond & cautioned re: bail jumping.

☐ The Court recommends that the defendant be confined in an institution _____

_____ The Court recommends/directs that while incarcerated:

- _____ The defendant shall participate in a substance abuse program.
- _____ The defendant shall develop a skill or trade.
- _____ The defendant shall obtain his/her GED.

Comments/Witnesses/Exhibits

Witness: _____

Witness: _____

Witness: _____

Exhibit: _____

Exhibit: _____

Exhibit: _____